



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: John M. Smith III  
Serial Number to Be Assigned: 09/965,485  
Filing Date to Be Assigned: 9/27/2001  
Confirmation No.: 3741

Commissioner for Patents  
Washington, DC 20231

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JAN 22 2002

OFFICE OF PETITIONS

Adjustment date: 12/13/2002 AKELLEY  
02/10/2002 ALUANG 00000064 09965485  
OL FC:122 -130.00 OP

PETITION UNDER 37 CFR 1.53(e)

Repln. Ref: 12/13/2002 AKELLEY 0011205600  
DP#501923 Name/Number:09965485  
FC: 9204 Dear Sir: \$130.00 CR

Counsel has received a Notice of Incomplete Non-Provisional Application indicating that the application was deposited without drawings. The omitted drawings are not necessary for an understanding of the invention, so the application should be given the filing date of September 27, 2001, when the papers were deposited. Our check for \$130.00 for the 37 CFR 1.17(h) fee is enclosed. However, because applicant believes that its application is entitled to the September 27, 2001 filing date, it is requested that the enclosed petition fee be refunded.

According to MPEP § 601.01(f) 8<sup>th</sup> edition, it has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention, under 35 U.S.C. § 113. Claims 22-41 of this application are all method claims and so therefore need drawings for understanding.

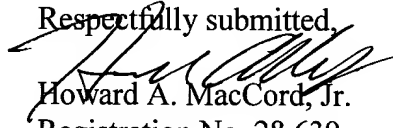
In addition, MPEP § 601.01(f) indicates that coated articles or products are deemed not to require a drawing. Claims 1-21 of this application conform to criteria. Accordingly, no drawing is required for this application under 35 U.S.C. 113, and so

applicant should be accorded the filing date of September 27, 2001, the date of deposit of the papers that the PTO has received.

In an accompanying preliminary amendment, applicant has amended the specification to delete the references to the drawings inadvertently omitted, in order to conform to the non-drawing situation. For the Examiner's convenience, however, a copy of the drawing is enclosed, showing use of the fabric as a bedspread, drapery, and upholstery fabric. These drawings were intended to provide depictions of the subject matter of claims 11, 12, and 13, but it is believed that the claims can survive without submission of the drawings. On the other hand, should the Examiner deem that drawings are required under 37 CFR 1.84, submission of a drawing comparable to the enclosed would not amount to new matter, having been fully supported by the text of claims 11, 12 and 13, as well as the specification at page 1, line 27-29.

It is believed that this application is now in condition for examination with a filing date of September 27, 2001. Evaluation of this petition to restore applicant's filing date of September 27, 2001, is respectfully requested.

Respectfully submitted,

  
Howard A. MacCord, Jr.  
Registration No. 28,639

Date: 13 November 2001  
File No. 2250-013

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## REQUEST FOR PATENT FEE REFUND

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